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8 Attorneys for Plaintiffs,  
9 ARISTA RECORDS LLC; UMG  
10 RECORDINGS, INC.; SONY BMG  
11 MUSIC ENTERTAINMENT; and  
12 INTERSCOPE RECORDS

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN FRANCISCO DIVISION

16 ARISTA RECORDS LLC, a Delaware limited  
17 liability company; UMG RECORDINGS, INC.,  
18 a Delaware corporation; SONY BMG MUSIC  
19 ENTERTAINMENT, a Delaware general  
20 partnership; and INTERSCOPE RECORDS, a  
21 California general partnership,

22 Plaintiffs,

23 v.

24 DARRYL HORVAT,

25 Defendant.

CASE NO. 3:08-01041-SC

**Honorable Samuel Conti**

***EX PARTE* APPLICATION TO CONTINUE  
CASE MANAGEMENT CONFERENCE  
AND [PROPOSED] ORDER**

1 Plaintiffs respectfully request that the Court continue the case management conference  
2 currently set for September 5, 2008, at 10:00 a.m., to November 7, 2008. As further explained  
3 below, Defendant Darryl Horvat ("Defendant") has not appeared in this action. Therefore, a case  
4 management conference is unnecessary at this time.

5 1. Plaintiffs have previously requested and the court has granted one continuance of the  
6 case management conference in this matter.

7 2. Plaintiffs initially filed the Complaint in this matter against a John Doe defendant. In  
8 order to discover the Doe defendant's true identity, Plaintiffs also filed an *Ex Parte* Application for  
9 Leave to Take Immediate Discovery seeking the Court's permission to serve a Rule 45 subpoena on  
10 Defendant's Internet Service Provider ("ISP"), in this case the University of California, Santa Cruz.  
11 Once the court granted the discovery order, Plaintiffs then served a subpoena on the ISP, which  
12 thereafter identified the Defendant, Darryl Horvat.

13 3. Once the ISP identified Defendant, Plaintiffs sent him a letter on April 29, 2008  
14 notifying him of Plaintiffs' claims and encouraging him to contact Plaintiffs and attempt to amicably  
15 resolve this matter. Although Defendant responded to this letter on May 8, 2008, and Plaintiffs  
16 offered to settle this matter, no settlement agreement was reached. Accordingly, on May 27, 2008,  
17 Plaintiffs filed the First Amended Complaint naming Mr. Horvat individually as the Defendant.

18 4. Defendant was served with process on August 3, 2008, by substitute service.  
19 Defendant has not answered or otherwise responded to the Complaint. Accordingly, if Defendant  
20 does not respond to this action by September 5, 2008, Plaintiffs will file a request for entry of clerk's  
21 default at that time.

22 5. Given the circumstances of this case, there is no need for a case management  
23 conference at this time. Therefore, Plaintiffs respectfully request that the Court continue the case  
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1 management conference from September 5, 2008, at 10:00 a.m., to November 7, 2008, or  
2 such other date as conveniences the Court.

3 Dated: August 28, 2008

HOLME ROBERTS & OWEN LLP

4  
5 By: /s/ Dawniell Alise Zavala  
6 DAWNIELL ALISE ZAVALA  
7 Attorney for Plaintiffs  
8

9 **[PROPOSED] ORDER**

10 Good cause having been shown:

11 **IT IS ORDERED** that the case management conference currently set for September 5, 2008,  
12 at 10:00 a.m., be continued to November 7, 2008.

13  
14 Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Honorable Samuel Conti  
United States District Judge